

AUG 11 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GABRIELLA GONZALEZ,

Defendant - Appellant.

No. 05-50678

D.C. No. CR-04-03012-GT

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, Senior Judge, Presiding

Submitted August 7, 2006**

Before: SCHROEDER, Chief Judge, REINHARDT and HAWKINS, Circuit Judges.

Gabriella Gonzales appeals the sentence imposed following her guilty plea to being an alien in the United States after deportation in violation of 8 U.S.C. § 1326.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have reviewed the record and the opening brief. We conclude that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

The United States Supreme Court's decision in *Almendarez-Torres v. United States*, 523 U.S. 224, 247 (1998), is binding on this court. *See United States v. Weiland*, 420 F.3d 1062, 1079 n.16 (9th Cir. 2005) (noting that this court remains bound by the Supreme Court's holding in *Almendarez-Torres* that a district court judge may enhance a sentence on the basis of prior convictions, even if the fact of those convictions was not found by a jury beyond a reasonable doubt); *see also United States v. Beng-Salazar*, No. 04-50518, 2006 WL 1843394 (9th Cir. July 6, 2006).

Accordingly, the government's unopposed motion for summary affirmance of the district court's judgment is granted.

AFFIRMED.